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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,303	03/15/2001	Samuel F. Liprie	INE-0044-C2	9542

23413 7590 05/20/2002

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EXAMINER

KEITH, JACK W

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 05/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/681,303

Applicant(s)

Liprie

Examiner

Jack Keith

Art Unit

3641



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Mar 18, 2002

2a) ☐ This action is FINAL.

2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-31 is/are pending in the applica

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from considera

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☒ Claims 1-31 are subject to restriction and/or election requirem

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) ☐ Notice of Informal Patent Application (PTO-152)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6) ☐ Other:

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## DETAILED ACTION

### *Response to Amendment*

1. The reply filed on 3/18/2002 is not fully responsive to the prior Office Action because:

Applicant has not elected the thin-walled/neutron permeable material encapsulation material (e.g., **platinum, gold, titanium, or aluminum 1100**). Note the listed materials are those disclosed within the specification (see for example paragraph 19 of the specification). Applicant's election of nickel/titanium alloy as the encapsulation material is not considered to be supported by the specification. Such is not disclosed in the specification!

Note further applicant identified claims 3 and 19 as not reading on the elected species of Paper no. 5. The election is inconsistent. It is believed that applicant is identifying between the thin-walled neutron permeable material and the encapsulation material. It appears that the thin-walled neutron permeable material and the encapsulation material are the same only broader in scope. If there is a difference between the thin-walled neutron permeable material and the encapsulation material applicant should state so on the record.

Additionally note that applicant argues that the examiner has stated that there is no difference between figures 2 and 3. The examiner has not done so. The restriction/election requirement requires the election between figures 1, 2 and 3. Applicant's arguments are unclear.

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Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Keith whose telephone number is (703) 306-5752. The examiner can normally be reached on Monday through Friday from 7:00 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703) 306-4198. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

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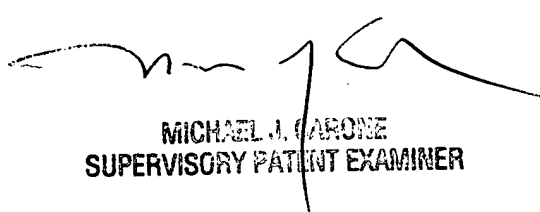
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

jwk

May 17, 2002



MICHAEL J. CARONE  
SUPERVISORY PATENT EXAMINER